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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/539,433	10/20/2005	Craig Bruce	AL-0004	8658

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EXAMINER

WILSON, JOHN J

ART UNIT	PAPER NUMBER
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3732

DATE MAILED: 11/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/539,433

Applicant(s)

BRUCE, CRAIG

Examiner

John J. Wilson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 June 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 11/14/05.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application
- ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Acquanetta (4580980). Acquanetta shows a cosmetic prosthesis 10 that is customizable, column 2, lines 34-64, space filling component 12 for resting between the gums and lips, Fig. 6, for pushing outwardly to reduce wrinkles, column 1, line 8. As to claim 3, Acquanetta shows using wax, column 2, line 51, which is a dental impression technique. Further, all of the actual structure being shown, the process of making is not given any patentable weight. As to claim 4, Acquanetta shows prosthesis 12, 14 attached to teeth, see Fig. 1. As to claim 5, pushing is intended by Acquanetta, all of the actual structure being shown, the intended use is given no patentable weight. As to claim 7, Acquanetta shows two components 12, 14.

Claims 7, 8 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Laffin (2568197). Laffin shows an appliance having two components, one on each side of division 15. As to claim 8, Laffin teaches using elastomeric material, column 2, lines 57-58. As to claim 12, see teaching of color, column 3, lines 61-62, and shows indentations 11. The specific manner in which the shown structure is intended to align with the neck of a tooth is intended use. All the actual claimed structure shown the specific alignment with the teeth is merely intended use, and as such, is not given patentable weight.

Claim 7 is rejected under 35 U.S.C. 102(b) as being anticipated by Hale (3584620). Hale shows a appliance having two components extending back from a central region as shown.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Acquanetta (4580980) in view of Laffin (2568197). Acquanetta shows the structure as described above, and shows a denture, which it is well known to use gum colored material, however, Acquanetta does not specifically state using a color to match the gums. Laffin teaches using a color to match the gums, column 3, lines 61-62. It would be obvious to one of ordinary skill in the art to modify Acquanetta to include using a color that matches the gums in order to improve aesthetics.

Claims 9-11, 13-15, 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Acquanetta (4580980) in view of Albert et al (5951291). Acquanetta shows the structure as described above, however, does not show using a flexible plastic or an acrylic or a silicone material. Albert teaches using a flexible plastic, acrylic and

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silicone, column 5, lines 36-50. It would be obvious to one of ordinary skill in the art to modify Acquanetta to include the materials as shown by Albert in order to make use of materials known to be compatible with use in the mouth. As to claims 13-15, 18 and 19, the specific material used is an obvious matter of choice in well known non-critical materials used to the mouth to one of ordinary skill in the art.

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hale (3584620). Hale shows the structure as described above, and further shows using a clasp 12, Fig. 5. The specific material used is an obvious matter of choice in well known non-critical materials used to the mouth to one of ordinary skill in the art.

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Acquanetta (4580980) or Laffin (2568197) or Hale (3584620) in view of Norton (4671766). Acquanetta, Laffin and Hale show the structure as described above, however, they do not show a wire connecting left and right sides. Norton shows a device for use in the mouth using a wire 11 for connecting left and right sides of the device. It would be obvious to one of ordinary skill in the art to modify Acquanetta, Laffin or Hale to include a wire as shown by Norton in order to position the device only in the desired regions of the mouth.

Drawings

The drawings submitted June 20, 2005 have been found to be acceptable by the examiner.

Specification

The Abstract must be on a separate sheet not including other information.

Information Disclosure Statement

The IDS submitted November 14, 2005 has been considered and an initialed copy attached.

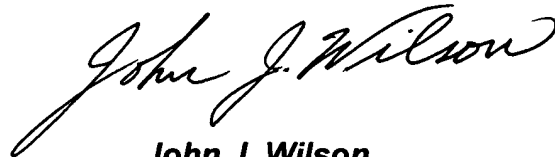
Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Thiemann (2431521) shows a device to reduce wrinkles. Palahnuk et al (6830590) shows a lip enhancer.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John J. Wilson whose telephone number is 571-272-4722. The examiner can normally be reached on Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cris Rodriguez, can be reached at 571-272-4964. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, reading "John J. Wilson". The signature is fluid and cursive, with the first and last names being more prominent.

John J. Wilson
Primary Examiner
Art Unit 3732

jjw
November 7, 2006